

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFF**EUGENE C. SPANN**

(b) County of Residence of First Listed Plaintiff **DELAWARE (PA)**
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Cary L. Flitter, Esq. and Theodore E. Lorenz, Esq., Flitter Lorenz, P.C., 450 N. Narberth Avenue, Suite 101, Narberth, PA 19072, (610) 822-0781

DEFENDANT**CAVALRY PORTFOLIO SERVICES, LLC**

County of Residence of First Listed Defendant **WESTCHESTER (NY)**
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in one Box for Plaintiff and One Box for Defendant)

- | | | | |
|--|--|----------------------------|----------------------------|
| PTF | DEF | PTF | DEF |
| Citizen of This State <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	SOCIAL SECURITY	<input checked="" type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	PERSONAL INJURY	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	PERSONAL PROPERTY	<input type="checkbox"/> 740 Railway Labor Act	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 380 Other Personal Property Damage			<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	CIVIL RIGHTS	PRISONER PETITIONS		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 442 Employment	Habeas Corpus:		
	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General		
	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

Brief description of cause: Violation of Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No.

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 5201 Chevers Drive, Glen Mills, PA 19342

Address of Defendant: 500 Summit Lake Drive, Suite 400, Valhalla, NY 10595

Place of Accident, Incident or Transaction: 5201 Chevers Drive, Glen Mills, PA 19342

Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases

(Please specify) Fair Debt Collection Practices Act, 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability (Asbestos)
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: _____ Attorney-at-Law _____ Attorney I.D. _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: Feb 18, 2015
CIV.609 (4/03)

Ray L. Fitt
Attorney-at-Law

35047
Attorney I.D.

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

EUGENE C. SPANN	:	CIVIL ACTION
	:	
v.	:	
	:	
CAVALRY PORTFOLIO SERVICES, LLC	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>Feb 18, 2015</u>	<u>Cary L Flitter</u>	<u>Cary L. Flitter, Esq.</u>
Date	Attorney at Law	Attorney for Plaintiff
<u>610-822-0782</u>	<u>610-667-0552</u>	<u>cflitter@consumerslaw.com</u>
Telephone	Fax Number	E-Mail Address

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EUGENE C. SPANN
5201 Chevers Drive
Glen Mills, PA 19342,

Plaintiff,

vs.

CAVALRY PORTFOLIO SERVICES, LLC
500 Summit Lake Drive
Suite 400
Valhalla, NY 10595,

Defendant.

CIVIL ACTION

NO.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 ("FDCPA").

2. The FDCPA prohibits debt collectors from engaging in unfair or unconscionable practices in the collection of a consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA by exposing personal identifying information in the bar code readable through the window of the envelope that Defendant placed into the mails.

II. JURISDICTION

4. Subject matter jurisdiction of this Court arises under 15 U.S.C. § 1692k, actionable through 28 U.S.C. §§ 1331 and 1337.

5. Venue is proper as Defendant regularly does business in this district.

III. PARTIES

6. Plaintiff Eugene C. Spann (“Plaintiff” or “Spann”) is a consumer who resides in Glen Mills, Pennsylvania at the address captioned.

7. Defendant Cavalry Portfolio Services, LLC (“Defendant” or “Cavalry”) is a nationwide debt collector with a principal place of business at the address captioned.

8. Defendant regularly engages in the collection of consumer debts in this district through the use of the mails and telephone.

9. Defendant regularly attempts to collect consumer debts alleged to be due another.

10. Defendant is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

IV. STATEMENT OF CLAIM

11. On or about February 25, 2014, Defendant Cavalry mailed a collection dun to Plaintiff in an attempt to collect a consumer debt alleged due. A copy of the February 25, 2014 letter is attached hereto as Exhibit “A” (redacted in part per Fed. R. Civ. 5.2).

12. The collection letter was mailed by Defendant to Spann in a window envelope.

13. Visible through the window of the envelope placed into the mails is a QR bar code which when read or scanned reveals the account number Cavalry assigned to Spann’s account.

14. The account number (ending in 823) constitutes personal identifying information.

15. The QR bar code visible through the window could be easily scanned by anyone with a smartphone, as scanning applications are readily available to the public free of charge.

16. Section 1692f of the FDCPA prohibits the use of unfair or unconscionable means to collect or attempt to collect a debt, 15 U.S.C. § 1692f(8) prohibits any language or symbol

other than the debt collector's name or address on any envelope when communicating with a consumer by mail.

17. The disclosure of personal identifying information such as this infringes upon the consumer's privacy interests protected by the FDCPA, 15 U.S.C. § 1692(a).

COUNT I
(FAIR DEBT COLLECTION PRACTICES ACT)

18. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

19. Defendant's acts described above violated the Fair Debt Collection Practices Act by displaying personal identifying information on the envelope addressed to Plaintiff that Defendant placed into the mails. 15 U.S.C. §§ 1692f, 1692f(8).

WHEREFORE, Plaintiff Eugene C. Spann demands judgment against Defendant Cavalry Portfolio Services, LLC for:

- (a) Damages;
- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

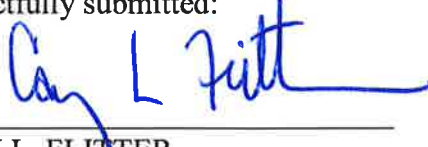
VII. JURY DEMAND

Plaintiff demands trial by jury as to all issues so triable.

DATE:

Feb 18, 2015

Respectfully submitted:

A handwritten signature in blue ink, appearing to read "Cary L. Flitter", written over a horizontal line.

CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ
Attorneys for Plaintiff

FLITTER LORENZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0781

EXHIBIT “A”

PO Box 520
Valhalla, NY 10595

7 8 00001969
373608



Phone: (866) 434-2995 • FAX: (914) 347-1973
www.cavalryportfolioservices.com



February 25, 2014

RE: Original Institution: HSBC Bank Nevada, N.A./Capital One Bank
USA, N.A.
Original Account No.: [REDACTED] 9846
Cavalry Account No.: [REDACTED] 823
Outstanding Balance: \$ [REDACTED]



Eugene C Spann
5201 Chevers Dr
Glen Mills, PA 19342-2344

Cavalry is offering a **40%** discount to you. That's right, you can settle your account for \$ [REDACTED]. Simply mail your payment along with the coupon at the bottom of this page.

This offer expires thirty (30) days from the date of this letter. Please note, we are not obligated to renew this offer.

Please feel free to call us at **(866) 434-2995** to discuss this or other payment options available at Cavalry.

Sincerely,

Cavalry Portfolio Services, LLC

We have told a credit bureau about a late payment, missed payment or other default on your account. This information may be reflected in your credit report.

THIS IS AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED WILL BE USED FOR
THAT PURPOSE. THIS COMMUNICATION IS FROM A DEBT COLLECTOR.
SEE REVERSE SIDE FOR IMPORTANT INFORMATION CONCERNING YOUR RIGHTS

PAYMENT COUPON

Eugene C Spann
5201 Chevers Dr
Glen Mills, PA 19342-2344

Please detach and return this portion with your payment
to the address below.

Make Checks and Money Orders Payable to
Cavalry Portfolio Services, LLC.

If you would like to pay your account via our
secure website, please visit us at
<https://payments.cavalryportfolioservices.com>



Cavalry Portfolio Services, LLC
PO Box 27288
Tempe, AZ 85285-7288

Original Institution: HSBC Bank Nevada, N.A./Capital One
Bank USA, N.A.
Original Account No.: [REDACTED] 9846
Cavalry Account No.: [REDACTED] 823
Outstanding Balance: \$ [REDACTED]

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CVN wld
373608
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